



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,932	10/30/2003	James F. McGuckin JR.	1255	1044

7590 09/09/2005  
NEIL D. GERSHON  
REX MEDICAL  
1011 HIGH RIDGE RD  
Stamford, CT 06905

EXAMINER

BAXTER, JESSICA R

ART UNIT PAPER NUMBER

3731

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/696,932

Applicant(s)

MCGUCKIN ET AL.

Examiner

Jessica R. Baxter

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 05092005.04042005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: 11032004.10222004.04212004. (IOS)

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-11 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,601,595 to Smith.

Smith discloses a vessel filter comprising a mounting section having first and second ends and a first and second filtering section, the filter movable between a collapsed position for delivery to the vessel and an expanded position for placement within the vessel (Column 3 lines 10-20), in the expanded position a first end of the first filtering section converges to form a first converging region (22) and a second end of the second filtering section converges to form a second converging region (24), the first converging region being positioned radially and axially inwardly of the first end of the mounting section and the second converging region being positioned radially and axially inwardly of the second end of the mounting section (FIG. 2); wherein the mounting section includes a plurality of longitudinally extending struts; wherein portions of the filter connecting the first and second end of the mounting sections to the respective converging region angle radially inwardly and toward a center of the filter to direct particles toward the center; wherein the longitudinal struts include roughened surfaces (72, 19) to engage the vessel wall to increase retention; further comprising a plurality of vessel engaging members with pointed ends extending from the longitudinal struts to engage the vessel wall to increase retention (18); wherein the filter

Art Unit: 3731

is composed of shape memory material; wherein opposing ends of at least one of the longitudinal struts are out of phase; wherein the longitudinal struts are spaced circumferentially about 60 degrees apart; wherein the filter has a plurality of spaced apart struts, the struts converging toward a center of the filter.

Smith discloses a method of implanting a vessel filter in a patient's body comprising the steps of providing a vessel filter having a mounting section and first and second filtering sections each terminating in a converging end region; providing a tubular delivery member containing the vessel filter in a collapsed configuration having a first diameter; inserting the vessel filter in the collapsed configuration adjacent a surgical site; deploying the vessel filter from the delivery member so the vessel filter moves to a placement configuration having a diameter larger than the first diameter and the converging end regions of the filtering sections are closer to a center of the filter than end portions of the mounting section (Column 7 lines 21-44).

3. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 99/25252 to Bosma et al.

Bosma discloses a vessel filter comprising a mounting section having first and second ends and a first and second filtering section, the filter movable between a collapsed position for delivery to the vessel and an expanded position for placement within the vessel, in the expanded position a first end of the first filtering section converges to form a first converging region and a second end of the second filtering section converges to form a second converging region (converging regions located at each end of the device in the form of cylindrical members), the first converging region being positioned radially and axially inwardly of the first end of the mounting section and the second converging region being

positioned radially and axially inwardly of the second end of the mounting section (FIGS. 1, 5, 8,); wherein the filter is composed of a singular tube having cutouts therein forming a plurality of longitudinal struts (FIGS. 2, 4, 6, 7, 10); wherein the mounting section includes a plurality of longitudinally extending struts (17, 18); wherein portions of the filter connecting the first and second end of the mounting sections to the respective converging region angle radially inwardly and toward a center of the filter to direct particles toward the center; wherein the longitudinal struts include roughened surfaces to engage the vessel wall to increase retention (protrusions in FIG. 8); further comprising a plurality of vessel engaging members with pointed ends extending from the longitudinal struts to engage the vessel wall to increase retention (FIGS. 8-9C); wherein the filter is composed of shape memory material (page 7, lines 17-19); further comprising a rib connecting adjacent longitudinal struts (FIG. 8, ribs are the struts that connect struts 24 with a V shape).

Bosma discloses a method of implanting a vessel filter in a patient's body comprising the steps of providing a vessel filter having a mounting section and first and second filtering sections each terminating in a converging end region; providing a tubular delivery member containing the vessel filter in a collapsed configuration having a first diameter; inserting the vessel filter in the collapsed configuration adjacent a surgical site; deploying the vessel filter from the delivery member so the vessel filter moves to a placement configuration having a diameter larger than the first diameter and the converging end regions of the filtering sections are closer to a center of the filter than end portions of the mounting section (Page 2 lines 3-8).

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica R. Baxter whose telephone number is 571-272-4691. The examiner can normally be reached on M-F 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jessica R Baxter  
Examiner  
Art Unit 3731

  
jrb

  
EDUARDO C. ROBERT  
PRIMARY EXAMINER